

## REMARKS

Favorable reconsideration of this application, in light of the following discussion and in view of the present amendment, is respectfully requested.

Claims 9-19 have been amended. Claims 9-19 are pending and under consideration.

### I. Rejection under 35 U.S.C. § 101

In the Office Action, at page 2, claim 19 was rejected under 35 USC § 101 as being non-statutory. Claim 19 has been amended in response to this rejection. Accordingly, withdrawal of the § 101 rejection is respectfully requested.

### II. Rejection under 35 U.S.C. § 102

In the Office Action, at pages 2-8, claims 9-11, 14, and 18-19 were rejected under 35 USC § 102(e) as being anticipated by Rogard et al. (U.S. Patent No. 7,062,294).

Rogard et al. does not discuss or suggest:

after receiving the signaling message, transmitting a user data message to the mobile station via a plurality of transmitting network-side antennas, the transmitting network-side antennas being selected as only the network-side antennas that received the signaling message from the mobile station,

as recited in amended claim 9. In other words, the invention of claim 9 provides for transmitting a user data message to the mobile station using only the network-side antennas that received the signaling message from the mobile station as a result of its current location. By using only these antennas, the invention of claim 9 avoids using other unnecessary antennas that may create undesirable interference. Rogard et al. discloses beam forming using switched beam antennas, smart antennas, or an SDMA antenna array. However, in each of these methods, the antennas elements 104 are linked to a single base station 102 and are separated from each other on the order of only a few wavelengths of the used frequency. This is to be contrasted with claim 9, which is directed to a plurality of network-side antennas that are distributed over a plurality of positions within a radio cell. Furthermore, the uplink and downlink processing of the base station 102 of Rogard et al. does not provide for transmitting signals using only the antenna elements 104 that have received a signaling message from a mobile station located within the cell, but instead provides for all of the antenna elements 104 to receive and transmit signals using a radiation pattern that is based on weighting parameters, etc.

Since Rogard et al. does not discuss or suggest all of the features of claim 9, claim 9 patentably distinguishes over Rogard et al. Accordingly, withdrawal of this § 102(e) rejection is respectfully requested.

Claims 10-11 and 14 depend either directly or indirectly from claim 9, and include all the features of claims 9, plus additional features that are not discussed or suggested by the reference relied upon. Therefore, claims 10-11 and 14 patentably distinguish over the reference relied upon for at least the reasons noted above. Accordingly, withdrawal of these § 102(e) rejections is respectfully requested.

Rogard et al. does not discuss or suggest:

means for choosing transmitting network-side antennas from the plurality of network-side antennas, the transmitting network-side antennas being chosen as only the network-side antennas that received the signaling message from the mobile station,

as recited in amended claim 18, so that claim 18 patentably distinguishes over Rogard et al. Accordingly, withdrawal of this § 102(e) rejection is respectfully requested.

Rogard et al. does not discuss or suggest:

choosing transmitting network-side antennas from the plurality of network-side antennas, the transmitting network-side antennas being chosen as only the network-side antennas that received the signaling message from the mobile station,

as recited in amended claim 19, so that claim 19 patentably distinguishes over Rogard et al. Accordingly, withdrawal of this § 102(e) rejection is respectfully requested.

### **III. Rejection under 35 U.S.C. § 103**

In the Office Action, at pages 8-13, claims 12-13 and 15-17 were rejected under 35 USC § 103(a) as being unpatentable over Rogard et al. in view of various combinations of Lim et al. (U.S. Patent No. 7,209,764), Angus et al. (U.S. Patent No. 6,097,969), and Newson et al. (U.S. Patent No. 6,320,898).

None of Lim et al., Angus et al., and Newson et al., alone or in combination, make up for the deficiencies in Rogard et al. discussed above with respect to claim 9.

Claims 12-13 and 15-17 depend either directly or indirectly from claim 9, and include all the features of claims 9, plus additional features that are not discussed or suggested by the references relied upon. Therefore, claims 12-13 and 15-17 patentably distinguish over the references relied upon for at least the reasons noted above. Accordingly, withdrawal of these § 103(a) rejections is respectfully requested.

**CONCLUSION**

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.


Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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